



June 28, 2004

Kelly Cooper  
Washington State Department of Health  
Mail Stop 47820  
Olympia, WA 98504-7820

Re: Proposed Amendments to State Onsite Sewage Regulations

Dear Ms. Cooper

The Pacific Coast Shellfish Growers Association (PCSGA) is concerned that rule revision recommendations from the Department's Rule Development Committee (RDC) currently being considered by the Board of Health (BOH) will not adequately protect the State's marine shorelines from sewage contamination. A March 9<sup>th</sup> letter from Governor Locke to the Board of Health indicates he shares similar concerns.

Bill Dewey with Taylor Shellfish Company represented the shellfish industry on the RDC for the past year and a half and has articulated what our industry sees as critical shortfalls in the RDC recommendations in Minority Reports #1 and #2 in Appendix C on pages 86 and 87 of the RDC Report (March 2004).

On February 27<sup>th</sup> in response to concerns raised by the Governor, Assistant Secretary, Janice Adair convened a meeting of stakeholders. The purpose of the meeting was to discuss strengthening the proposed rule as it applies to marine shorelines. Mr. Dewey participated in that meeting, and was pleased with initial progress. He has subsequently fallen out of the loop as the discussion on improving protections for marine shorelines shifted to interagency discussions headed by Ron Schultz with the Governor's office.

Several issues and their potential solutions, which may or may not be appropriate for inclusion in the rule revision, had not been fully explored as of the February 27<sup>th</sup> meeting. These items include the potential of requiring renewable operational permits for septic systems adjacent to marine shorelines, treatment to remove nutrients from onsite sewage, promotion of a utility-based approach to onsite management, property access for inspections and funding to homeowners for system repair and to local health jurisdictions for implementing operation and

maintenance programs. If solutions to these issues are not appropriate for inclusion in the rule, a process must be established for how best to address them.

To put this problem into perspective as it pertains to the shellfish industry, please consider the following. Washington State is the largest producer of farmed shellfish in the country. In 2002 the Pacific Coast Shellfish Growers Association estimates there was approximately 86 million pounds of farmed oysters, Manila clams, geoducks and mussels worth \$76 million dollars harvested in the state. In two of Washington's rural counties the shellfish industry is the second largest private employer. In Pacific County the shellfish industry directly or indirectly employs 600 people with an estimated \$10 million annual payroll. In Mason County there are 625 people directly or indirectly employed by the shellfish industry with a \$17.7 million estimated annual payroll. Declining water quality is continually forcing the industry to produce more shellfish in less area to fill our market demand. **According to Department of Health statistics, between 1985 and 2002, 25% of the approved shellfish growing areas have been downgraded.**

The downgrades to shellfish growing waters are often caused by multiple sources of nonpoint pollution of which failing onsite sewage systems are just one. In many instances however failed onsite sewage systems are the main culprit. In an effort to illustrate this for you I have provided results from County septic system testing in commercial shellfish growing areas in an addendum attached to this letter.

PCSGA believes we have a unique opportunity to effect some critical changes to onsite sewage management on Washington's marine shorelines. These changes could well determine whether Washington State continues to have a shellfish industry. We urge the Department of Health to incorporate revisions discussed on February 27<sup>th</sup> and by the interagency workgroup that would strengthen marine shoreline protections prior to filing the CR 102.

On behalf of Washington State's shellfish industry I thank the Department for their leadership on this very important public health issue.

Sincerely,

Mark Schaffel  
President

cc: Governor Gary Locke  
Mary Selecky  
Craig McLaughlin  
Ron Schultz  
Tom Fitzsimmons  
Janice Adair  
Maryanne Guichard

**Addendum - examples illustrating the threat posed to shellfish beds from failing onsite sewage systems.**

- **Similk Bay**, an historic commercial shellfish growing area in Skagit County, was downgraded to “Prohibited” by the Washington State Department of Health in July 2000. A subsequent shoreline sanitary survey by Skagit County in 2001 identified 83 dwellings serviced by onsite sewage systems. Of the 83 systems, 69 were dye tested and 57% (39 systems) were found to be failing. While the survey also identified pet and wildlife waste as a potential problem, failed onsite sewage systems were identified as the most significant contributor. The sanitary survey report states: “Ditches and beach areas had sewage that was readily accessible to the general public. In addition, sewage was ponding on private property.” Four years later Skagit County continues to work with local Similk Bay residents and Skagit PUD to identify a community solution. In the meantime the shellfish bed classification remains “Prohibited.” Taylor Shellfish Company, who leased commercial beds in the bay from the Morgan family, has been forced to shut down their operations in Similk Bay.
- **Eld Inlet**, an historic shellfish growing area in Thurston County had 600 acres downgraded from “Approved” to “Conditionally Approved” by the Washington State Department of Health in 1983. In 1984, Thurston County conducted an intensive water quality study to locate the fecal coliform bacteria sources. This study (and later ones) confirmed that the primary fecal sources of pollution were failing on-site sewage systems and poor animal-keeping activities (Hofstad, et al., 1996). Between 1990 and 1996 there were 616 parcels identified with onsite sewage systems. Of these, 564 were surveyed and 93 were found to be failing (16%) and an additional 78 (14%) systems were suspect. Considerable remediation over the next fourteen years finally resulted in all 600 acres of the downgraded area being upgraded to “Approved” in 1997. According to Washington Department of Health’s March 1999 report, *Trends in Fecal Coliform Pollution in Eleven Puget Sound Embayments*, “Most stations showed improving trends, particularly in the vicinity of Madrona and Sunrise beaches and Young’s Cove, where many residents have repaired their failed on-site sewage systems. The evidence suggests that focused on-site sewage remedial action was effective in reducing fecal pollution and improving water quality.” Unfortunately, more recent sampling in Eld Inlet indicates water quality is once again deteriorating. According to Thurston County Environmental Health Specialist, Linda Hoffstad, it has been 8 years since the county has had any funding to conduct surveillance or intensive follow-up surveys along shorelines or of those septic systems at highest risk of impact to surface water. Due to lack of a funding source, no proactive O&M septic system investigation work has been done in this watershed.
- **Henderson Inlet** in Thurston County has been a prime shellfish growing area for generations, but today a large portion of this inlet is closed to shellfish harvest due to poor water quality. Pollution problems in Henderson began more than a decade ago, as the county’s burgeoning population expanded shoreward. This increased urbanization in the watershed and along the shoreline has brought with it increased septic system failures, road runoff, pet and agricultural wastes. The result: the head of the bay is now closed to shellfish harvest entirely. This is because pollution levels, as indicated by fecal coliforms, exceed national and state health standards in this portion of the inlet. Adjacent to the closed area is a large (expanding) “conditional” area. In this zone shellfish can only be harvested during

periods of dry weather. This is because pollution runs into the bay along with rainfall, raising the fecal levels beyond legal standards. Farther up, closer to the mouth, the bay's fully "opened" zone is shrinking in size. Prior to the growing area closures in Henderson, this shellfish growing area yielded about \$1 million a year in sales, creating jobs, generating supporting business revenues and a significant tax base which all contributed to the local and state economy.

In order for protection of water quality and the resources, proactive O&M septic system efforts must be on-going. As the Eld Inlet example shows, one time efforts do/may result in significant improvements. But unless there is a continuous program, those improvements will be lost and the shellfish resources will again be threatened.

- **Drayton Harbor**, an historic commercial shellfish-producing bay adjacent to Blaine in Whatcom County, has been plagued in recent years by water quality problems. In 1995 the State Department of Health downgraded portions of the bay to "Prohibited" for shellfish harvest, and in 1999, the entire bay was downgraded to "Prohibited," which resulted in one oyster company going out of business. A survey of septic systems surrounding the bay in 2000 found a 21% failure rate. While Drayton has multiple sources of nonpoint pollution, clearly failing onsite sewage systems are a significant contributor. Efforts are ongoing to address the various sources of fecal bacteria to Drayton Harbor. An intense community-based effort, which has included the creation of a "Community Oyster Farm", has yielded results after more than three years of work. The DOH announced this June that they were re-opening, on a "Conditional" basis, approximately 575 acres (20%) of the bay for harvest of shellfish. Of this, about 100 acres are appropriate for shellfish farming. These hard-won gains could easily be lost if we fail to put proper protections in place.
- **Samish Bay**, in Skagit County, has a history of shellfish culture dating back to the early 1900s. In 1994, shellfish from the bay were linked to a Norwalk virus outbreak. This outbreak resulted in large portions of the bay being downgraded. Sanitary surveys of the septic systems in the surrounding communities of Blanchard and Edison were conducted in 1995. Of the 72 systems tested in Edison, 18 were actually permitted, while the county had no record of 54 of these systems. Of these, 37 were failing (51 percent) and an additional 5 classified as pre-failing. In Blanchard, of the 64 systems tested, 14 were permitted, while the county had no record of 50 of these existing systems. Of these 64 systems, 28 percent were failing and 19 percent were classified as pre-failing. Subsequent repairs to systems in both of these communities allowed large portions of the shellfish growing areas to be upgraded. In November 2004, the Samish Bay shellfish industry was hit with another Norwalk virus outbreak with oysters sickening 25 or more individuals. While human feces or vomit was implicated, the source remains unknown. With Skagit County conducting little-to-no septic Operation and Management (O&M) around Samish Bay, a failed septic could easily have been the source. The bay was shut down for commercial harvest immediately prior to Thanksgiving and Christmas, a critically important sales season for the shellfish industry. Product was recalled from 17 states and four countries. Shellfish companies issued in excess of \$20,000 in credits, lost an estimated \$130,000 in crucial holiday sales and 11 workers were put out of work for the holidays.

Samish Bay is home to several shellfish farms employing collectively 36 full time employees and an estimated annual payroll of \$1,134,150 and generating approximately \$3.2 million in sales annually.

- **Totten-Little Skookum Inlet, Mason County.** Recognizing the value of the shellfish industry in this inlet, Mason County in 1992 proactively established the Totten-Little Skookum Clean Water District under Chapter 90.72 RCW. A survey of septic systems was conducted in the watershed between 1993 and 1995. A total of 1,145 systems were inspected, including 494 systems along the shoreline and 651 systems in upland areas. The county identified 70 shoreline failures (14 percent) compared to 27 upland failures (four percent). The overall failure percentage for the watershed was eight percent.

**Lower Hood Canal Watershed, Mason County.** Mason County formed the Lower Hood Canal Clean Water District in response to the State Department of Health downgrade in growing area classification. Lower Hood Canal is an important area for both recreational and commercial shellfish harvest. The county conducted a survey of 5,041 systems in the Lower Hood Canal Watershed between 1994 and the end of 1996. The number of systems requiring repairs was 498 (9.9 percent). No final report appears to be available, however, an assessment after 3,092 inspections had been completed found 202 system failures along the shoreline (21 percent). Assessments, which supported inspection and O&M activities in Mason County's clean water districts, have been discontinued. No routine surveying for failed systems is currently conducted.